



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

GREENWALD & BASCH, LLP
349 WEST COMMERCIAL STREET, SUITE 2490
EAST ROCHESTER, NY 14445

COPY MAILED

AUG 08 2002

OFFICE OF PETITIONS

In re Application of
Thomas H. Foster et al.
Application No. 10/077,893
Filed: February 19, 2002
Attorney Docket No. BTI-13

DECISION GRANTING
PETITION

This is a decision on the petition filed June 19, 2002, requesting that the above-identified application be accorded a filing date of February 19, 2002, with Figures 44 and 45 as a part of the original disclosure of the application.

The application was filed on February 19, 2002. However, on June 14, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a February 19, 2002 filing date, but that figures 44 and 45 described in the specification appeared to have been omitted.¹

In response, on June 19, 2002, Figures 44 and 45 were filed, accompanied by the present petition. Petitioner argues that Figures 44 and 45 were filed on May 29, 2002 in response to the Notice to File Missing Parts mailed March 18, 2002. In support, a copy of petitioners' postcard receipt was supplied on June 19, 2002. The postcard receipt shows an Office date stamp of May 29, 2002, and acknowledges receipt, *inter alia*, of fifty-eight (58) sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figures 44 and 45 be accorded a filing date of February 19, 2002.

A review of the record reveals that fifty seven (57) sheets of drawings, containing all drawings except those on page 30 of 58, are located among the application papers deposited on May 29, 2002. However, the evidence is convincing that the application papers deposited on May 29, 2002, included one (1) sheet of drawing containing Figures 44 and 45 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing figures 44 and 45 as described in the specification, is entitled to a filing date of February 19, 2002.

The "Notice" mailed on June 14, 2002, is vacated.

¹A Notice to File Missing Parts was mailed March 18, 2002 requiring the filing of the oath or declaration, surcharge and substitute drawings in compliance with 37 CFR 1.84. In response, on May 29, 2002 (with a request for a one month extension), the oath or declaration, surcharge and Formal Drawings were filed, which necessitated the June 14, 2002 mailing of the Notice of Omitted Items.

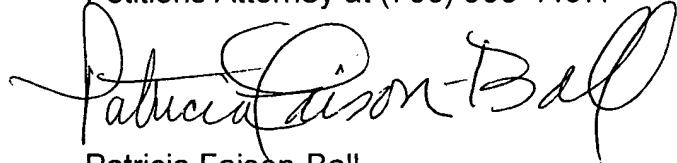
In view of the above, the petition is granted.

The application will be processed and examined using figures 44 and 45 supplied on June 19, 2002.

The \$130.00 petition fee submitted with this petition is unnecessary and will be credited to petitioner's deposit account no. 50-1706.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of February 19, 2002 using the application papers filed on February 19, 2002, May 29, 2002 and figures 44 and 45 filed on June 19, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy